



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**PRICE DANIEL
ATTORNEY GENERAL**

March 20, 1951

**Hon. Dudley Davis
District Attorney
Center, Texas**

Opinion No. V-1157

**Re: Automatic suspension
of the driver's li-
cense when a sentence
for driving while in-
toxicated is suspended.**

Dear Mr. Davis:

Your request for an opinion relates to the automatic suspension of a driver's license of one convicted of the offense of driving while intoxicated whose sentence has been suspended.

Section 25 of Article 6687b, V.C.S., provides in part:

"(a) Whenever any person is convicted of any offense for which this Act makes automatic the suspension of the operator's, commercial operator's, or chauffeur's license of such person, the court in which such conviction is had shall require the surrender to it of all operators', commercial operators', and chauffeurs' licenses then held by the person so convicted and the clerk of said court shall thereupon forward the same together with a record of such conviction to the Department, within ten (10) days from the date of conviction.

". . .

"(c) For the purpose of this Act, the term 'conviction' shall mean a final conviction. Also, for the purpose of this Act, a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction.

"Provided, however, that in case of conviction for any of the offenses enumerated

in paragraph (a) of Section 24¹ of this Act, and the sentence of the court having been suspended as provided in the Statutes, such suspended sentence shall not mitigate against the suspension of the operator's, commercial operator's, or chauffeur's license of the person convicted." (Footnote 1 added.)

Prior to the enactment of Article 6687b, this office consistently held that a suspended sentence did not constitute a final conviction under Article 6687a, V.C.S., and therefore a driver's license could not be suspended under such circumstances. Att'y Gen. Ops. 0-1395 (1939), 0-1523 (1939). Article 6687b expressly repealed Article 6687a and in so doing added a special provision that a suspended sentence shall not mitigate against the suspension of the operator's license of the person convicted. When a statute makes a general provision apparently for all cases and a special provision for a particular case or class, the former yields and the latter prevails insofar as the particular case or class is concerned. 2 Sutherland, Statutory Construction (3rd ed. 1943) 541; Townsend v. Terrell, 118 Tex. 463, 16 S.W.2d 1063 (1929); Sam Bassett Lumber Co. v. City of Houston, 145 Tex. 492, 190 S.W.2d 879 (1947); Canales v. Laughlin, 147 Tex. 169, 214 S.W.2d 451 (1948).

Section 25 of Article 6687b provides that the court shall require the surrender to it of all operators' and chauffeurs' licenses then held by the person convicted and shall forward the same to the Department of Public Safety. It is evident, therefore, that the revoking of the license is mandatory on the Department of Public Safety upon receipt of the record of conviction and is not founded on any judgment of the court ordering its suspension. Gilbert v. State, 152 Tex. Crim. 200, 212 S.W.2d 182 (1948). Even though the court suspends execution of the judgment or sentence it imposes on one convicted, the revocation of the license still takes effect. The court cannot suspend that result of conviction, because it is no part of the court's judgment; it is a result

1. Section 24 of Article 6687b requires, among other things, the automatic suspension of license upon final conviction for the offense of driving a motor vehicle while under the influence of intoxicating liquor.

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expressly imposed by law.

We agree with your conclusion, therefore, that the driver's license of one convicted of driving while under the influence of intoxicating liquor is automatically suspended despite the fact that his sentence has been suspended.

SUMMARY

Sections 24 and 25 of Article 6687b require the automatic suspension of a driver's license upon a conviction for driving while under the influence of intoxicating liquor even though the sentence be suspended.

APPROVED:

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BW:mw

Yours very truly,

PRICE DANIEL
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